THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 13678 of 2006

Date: 12.10.2007

Between:

J.N. Rao and others.

..... PETITIONERS

AND

Government of India, rep. by its
Secretary, Ministry of Labour Employment,
New Delhi and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 13678 of 2006

Order:

The petitioners, who are retired employees of the 5th respondent-Organization, have filed the present writ petition seeking to direct respondent Nos.1 to 4 to fix and release their monthly pension based on the salary received by them at the time of their superannuation and in terms of the option exercised under the proviso to Para 11 (3) of Employees Pension Scheme, 1995.

The case of the petitioners is that they exercised the option under the proviso to Para 11 (3) of Employees Pension Scheme, 1995, and accepting the said option, the 5th respondent-Organization deducted certain amounts from their salary towards contribution to the Employees Pension Scheme, and the 5th respondent-Organization also contributed its share of amount to the said Scheme i.e., at the rate of 8.33% on the actual salary that is being paid to them. Their further case is that they are entitled to pension amount on the entire salary received by them as on the date of their superannuation, and the ceiling limit of Rs.6500/- has no application to their case, but respondent Nos.1 to 4, in violation of the option exercised by them as accepted by the 5th respondent-Organization, fixed their pension on the basis of ceiling limit of Rs.6500/-, which is illegal and arbitrary. Hence, they filed the present writ petition.

Though the respondents initially filed a counter affidavit denying the allegations of the petitioners, when the matter is taken up for hearing today, learned Standing Counsel appearing for respondent Nos.1 to 4 brought to the notice of this Court that as there are several discrepancies

with reference to the Scheme, the Additional Central P.F. Commissioner (Pension), vide proceedings No.Pension/Misc./2005/65836, dated 22.11.2006, has given certain clarifications to all the Regional Provident Fund Commissioners/Regional Offices/Sub Regional Offices for settling the pensions, and in view of that he sought a direction to the 3rd respondent-Regional Provident Fund Commissioner, Visakhapatnam, to examine the cases of the petitioners in the light of the above said clarifications and pass appropriate orders. Learned counsel for the petitioners also agreed for the same.

Having regard to the facts and circumstances of the case, and in view of the agreed stand taken by both the counsel,

without going into the merits of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The 3rd respondent, namely the Regional Provident Fund Commissioner, Visakhapatnam, is directed to examine the cases of the petitioners in the light of the clarifications given by the Additional Central P.F. Commissioner (Pension), vide proceedings dated 22.11.2006, and pass appropriate orders in the matter within a period of six weeks from the date of receipt of a copy of this order. In case, if the petitioners' grievance is not redressed, they are at liberty to challenge the same.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 12.10.2007
Nsr